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SUPREME COURT, U.S.

NO. 81-6629

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

VLADIMIR N. ETLIN

APPELLANT

v.

CHARLES ROBB
GERALD BAILES
LEWIS GRIFFITH

APPELLEES

APPELLANT'S RESPONSE TO THE APPELLEES' BRIEF IN OPPOSITION

V. ETLIN, pro se
7403 Lisle Ave.
Falls Church, VA 22043
(703) 684-6607

J.A.Gibney, Jr.
Counsel for Appellees
101 North 8th St.
Richmond, VA 23219
(804) 786-0081

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REPORTS OF DECISIONS BELOW

Appellees misinform this Court stating that the decisions of the District Court and Circuit Court have not been reported.

Appellant reported those decisions in his Petition on pages: i (Opinion below); 1 (Jurisdiction); and 5.

JURISDICTION OF THE SUPREME COURT

Appellant mailed his motion for leave to proceed in forma pauperis and his Supporting affidavit together with the Petition for Writ of Cerciorari to the Appellees by certified mail on May 3, 1982. The receipt is available.

APPLICABLE PROVISIONS OF LAW

APPELLEES intentionally failed to mention that ongoing custody and support statutes of Virginia have been invalidated by the Supreme Court of Virginia by making impossible reviewing of a case unless a material change of circumstanses is shown. See Appellant's petition, page 8, and Appendises 9,10. Besides one should not confuse ongoing jurisdiction of a state court with a pending state proceeding which might have justified application of the Younger doctrine. See Appellant's petition page 7. But there was no pending state proceeding at that time.

Moreover Appellees have silenced that both the District Court and Court of Appeals were wrong stating that Etlin's constitutional claim could have been resolved in state court. Because state court has no power for a declaratory judgement on a law of Virginia in addition to the futility of a redress to the Supreme Court of Virginia, because there is no automatic right for appeal in Virginia which constitutes a violation of Due Process of appeal.(Appellant's petition, page 22).

SUMMARY OF ARGUMENT

Appellees are incorrect equating domestic relations and substatial constitutional claims. See Appellant's questions presented for review.

ARGUMENT

A.

Appellant has raised substantial federal questions,not questions of state law, that is why federal court is proper forum for redress.

Appellees are incorrect stating that Etlin sought redress from an Order entered on February 15, 1981. That Order was entered on February 26, 1981. That Order was final and could have been changed only when material change of circumstances is shown (App. 9,10). Etlin has not asked this Court to modify that Order but raised substantial constitutional questions which state court is not in power to solve, and it is futile to ask the Virginia Supreme Court for a declaratory judgement.See page 6 of the Appellant's petition.

The fact that the Appellees, who hold the highest state offices, do not see any violation of the Appellant's civil liberties emphasizes the futility of a redress at state court.

Appellees are incorrect stating that Younger doctrine has been extended to state civil proceedings. See Huffman v. Pursue, Ltd. 420 U.S. at 604 and page 7 of the Appellant's petition. Unless Appellees agree with Appellant that depriving him of his child is cruel and unusual punishment which constitute " a penalty as great, if not greater, than a criminal penalty..." See H.R.Rep. No. 95-1386, p.22 and p.21 of the Appellant's petition.

But even in cases where Younger doctrine is applicable the exceptions to the doctrine were developed not for the purpose of interfering with the functions of the State, as Appellees insist, but to prevent violations of the Constitutional liberties by the State. Presence of the several exceptions to the Younger doctrine was shown clearly in the Appellant's petition (pages 5-26).

Appelles are wrong in stating that there is no allegation in the complaint that any Virginia statute is facially unconstitutional. Appellant did show that custody and support statutes are unconstitutional on its face and as applied. See Appellant's petition, page 9-10.

CONCLUSION

Appellant has presented substantial federal questions for review which can not be solved by state court.

The lower federal courts have failed to analize Appellant's petition in light of principles laid down in Younger and the abstention was wrong.

Appellant respectfully requests that a Writ of Certiorari issue to review the judgement of the United States Court of Appeals for the Fourth Circuit.

Respectfully submitted,

V.ETLIN
APPELLANT, PRO SE

AFFIDAVIT OF SERVICE

I hereby certify that a true copy of the foregoing Appellant's responce to the Appellees' brief in opposition was mailed, postage prepaid, this 15 day of June 1982, within the permitted time, to J.A.Gibney,Jr. Counsel for Appellees, at 101 North 8th St. Richmond, VA 23219

VLADIMIR ETLIN

Subscribed and Sworn to
before me this 15th day
of June 1982.

Notary Public

My Commission expires 3/12/84

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